

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 6557 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

NEW INDIA ASSURANCE CO LTD

Versus

GAURIBEN RANCHOD HHARIJAN,WD/OLATE RANCHHOD JAVABHAI HARIJAN

Appearance:

MR PV NANAVATI for Petitioner

MR SURESH M SHAH for Respondent Nos. 1,2 & 3

CORAM : MR.JUSTICE Y.B.BHATT and
MR.JUSTICE A.K.TRIVEDI

Date of decision: 23/12/1999

ORAL JUDGEMENT (Per: Y.B.Bhatt, J.)

#. Appeal admitted. Mr. S.M.Shah waives service on behalf of respondent nos. 1 to 3 who are original claimants. Other respondents need not be served since

they are formal parties.

#. On a joint request of learned counsel for the respective parties, this appeal is taken up for hearing today.

#. This is an appeal under section 173 of the Motor Vehicles Act, 1988 challenging the impugned judgment and award passed by the M.A.C.Tribunal under section 163(A) of the said Act.

#. It is obvious that the present award under section 163(A) is in the nature of interim award since it has been passed below exh. 6 in the main Claim Petition No. 440/97, which is yet to be heard and decided. The present award is obviously subject to adjustment against the final award that may be passed on the main Claim Petition under section 165 of the Act. It is accordingly directed.

#. Respondents-original claimants shall file an undertaking before the Tribunal within 4 weeks from today stating that they will pursue the main Claim Petition and obtain a judgment and award on merits and they shall not permit the same to be dismissed for default or for want of prosecution or otherwise disposed of.

#. The amount of Rs. 25,000/- deposited with the Registry shall be transmitted to the Tribunal forthwith i.e. latest by 29th December, 1999. The present appellant is directed to deposit with the Tribunal the aggregate amount due under the award together with costs and interest within 6 weeks from today. On the deposit being made, respondent nos. 1 to 3 shall be entitled to withdraw 40% of the deposited amount and the balance 60% shall be invested by the Tribunal in a Fixed Deposit with a nationalized bank initially for a period of three years and on maturity, shall be renewed by one year at a time without further orders in this regard. It is clarified that the interest on this deposit shall continue to accrue and shall not be withdrawn by respondents-original claimants.

#. Subject to the aforesaid observations and directions, this appeal is dismissed with no order as to costs.

pirzada/-